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APPLICATION NO.	FILING-DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/352,466 07/13/99 BROUDY

V A-195CDD

021069
AMGEN INCORPORATED
MAIL STOP 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

HM12/1106

EXAMINER

HELMS, L

ART UNIT

PAPER NUMBER

1642

DATE MAILED:

11/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/352,466

Applicant(s)

BROUDY ET AL.

Examiner

Larry R. Helms

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 and 22-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 9/14/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/352,466 is acceptable and a CPA has been established. An action on the CPA follows.
2. Claim 21 is under examination.
3. Claims 1-20 and 22-25 are withdrawn from further consideration as being drawn to non-elected inventions.
4. The text of those sections of Title 35 U.S.C. code not included in this office action can be found in a prior Office Action.
5. The response filed 9/14/01 did not address the Office Action of 3/14/01 with amendments or arguments.

Specification

6. The disclosure is objected to because of the following informalities:
 - a. The first line of the specification should be updated to include all applications to which the instant application is claiming benefit from. The priority applications should indicate their current status.
 - b. The specification needs to be updated to indicate the current status of all co-pending applications, for example, page 1, lines 15-17.
 - c. The specification needs to be updated to indicate the ATCC accession number, for example on page 13, line 15 and page 31, line 7 and date of deposit.
 - d. The specification should be updated to indicate the new ATCC address which is 10801 University Boulevard, Manassas, VA 20110-2209.

e. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Appropriate correction is required.

Claim Objections

7. Claim 21 is objected to because of the following informalities: Claim 21 is dependent on non-elected claim 1. Appropriate correction is required.

Response to Arguments

8. The rejection of claim 21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is maintained.

The response filed 9/14/01 has been carefully considered but is deemed not to be persuasive. The response did not address this rejection with amendments or arguments.

9. The rejection of claim 21 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention is maintained.

The response filed 9/14/01 has been carefully considered but is deemed not to be persuasive. The response did not address this rejection with amendments or arguments.

Conclusions

10. No Claims are allowed.

11. This is a CPA of applicant's earlier Application No. 09/352466. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 1642

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry R. Helms, Ph.D, whose telephone number is (703) 306-5879. The examiner can normally be reached on Monday through Friday from 7:00 am to 4:30 pm, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

13. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-7401.

Respectfully,

Larry R. Helms Ph.D.

703-306-5879


SHEELA HUFF
PRIMARY EXAMINER